



What is the Duty to Report?

How do I report?

When do I report?

What happens when I do?

Members have asked these questions often enough that the ABCFP thought an answer in black and white, one that could be referred to whenever you have questions, would be a good idea. We hope this article will answer your questions and generate some good conversation amongst forest professionals.

Our Code of Ethics (bylaw 11) sets out that as members of our association we are responsible to the public, the profession, our employers and to other members. Part of the responsibility we owe to the public and to the profession is to report unprofessional conduct of other members to the association in certain circumstances.

In fact, the association's bylaws create a duty for members to report the actions of other members to the association in two specific circumstances.

In the first instance, bylaw 11.3.4, which deals with a member's responsibilities to the public, states that where a member believes a practice carried out by another member is detrimental to good stewardship of forest land that member must:

- advise the responsible person promptly and if the matter is not resolved, to inform council immediately in writing of the

particulars; or

- if it is not possible to raise the matter with the responsible person or if it is inappropriate in the circumstance to do so, to inform council immediately in writing of the particulars.

In the second instance, bylaw 11.4.3, which addresses a members responsibility to the profession, states that where a member believes another member may be guilty of infamous or unprofessional conduct, conduct unbecoming a member, negligence, or a breach of the *Foresters Act* or these bylaws that member must

- raise the matter with the other member, and if the matter is not resolved, to inform council immediately in writing of the particulars; or
- if it is not possible to raise the matter with that other member or it is inappropriate in the circumstances to do so, to advise council immediately in writing of the particulars.

These two duties are part of the social contract a self-regulating profession such as ours. The duty to report is one of the ways that professionals discharge their obligations to the public and profession and individually uphold their part of the social contract entrusted to the association and its members by government and the public.

Why must a member report?

First, wide scale failure to report unprofessional activities of members puts the association itself at risk of losing its self-governing status since members are not carrying out their responsibilities to the public and risk losing public confidence. Without public confidence a profession is not entitled to regulate itself.

Second, a member's failure to report demonstrates a disregard by the member for the profession and other members. Allowing unprofessional conduct to continue sullies the reputation of every member of the profession. This disregard can undermine the confidence of the members in the association and ultimately the effectiveness of the organization. Members are best positioned to recognize when potential breaches of professional duty occur.

Third, when a member is aware of a possible breach of professional practice and chooses not to react, that member is breaching the Code of Ethics. This could lead to disciplinary action being taken against the member by the association for breach of the Code of Ethics.

When should you notify the Association?

First, contact the person whose activities are in question to see if there is any important information that you are missing that may change your opinion about the need to report.

Once you are satisfied that you have the relevant information and have discussed it with the other member, you must decide if the matter is resolved. If resolved, you should communicate that to the member. If it is not resolved and you must report then you should still notify the other member of your intention to do so.

It is also possible that while the matter is resolved in that instance, you may decide that you must still report the situation. For instance, if you have reason to believe the incident forms part of a larger pattern of conduct you may still be duty-bound to report even if the particular incident is resolved. Again, you should inform the member that you are doing so.



If the matter is not resolved and you continue to believe that you have a duty to report in the circumstances you must inform the association by filing a complaint.

Alternately, if you are unsure as to whether you are required to report in the circumstances you may ask the association for help. The association can provide guidance, interpretation of relevant the bylaws including the Code of Ethics, or mediation services to help resolve differences of opinion or perception.

According to the terms of the bylaws, in situations where it is either not possible, or inappropriate, to raise the matter with the other person, you should report the situation directly to the association and the relevant authorities.

The association generally expects members to report directly where:

- (i) There are safety concerns;
- (ii) There is the potential for slope instability or landslide;
- (iii) There could be significant damage to other resource values (e.g. First Nation's values, fisheries, private land or downstream resources);
- (iv) There are examples of continuous errors or a history of poor quality work;
- (v) The subject member has previously been disciplined for similar actions;
- (vi) It is reasonable to believe that the alleged action was intentional and serious;
- (vii) It is reasonable to believe that the subject member was motivated by personal gain or received a benefit from the alleged action;
- (viii) The alleged action is of a nature such that a failure to deal with the matter

in a formal, transparent and public manner would tend to bring the profession and its discipline process into disrepute; or

- (ix) Any other circumstance where you as a member believe another member is not complying with the bylaws or code of ethics.

Can reporting another member expose a person to censure?

If members act in good faith and follow the process outlined above and in the bylaws they will be protected under section 32(4) (b) of the Act. This section makes it an offence for anyone to take punitive action against a person who, in good faith, makes a complaint. If a counter complaint is made it will be judged on its own merits.

Our investigative procedures are designed to gather the relevant information to determine whether a member has acted unprofessionally. If a counter complaint is made without merit in retaliation then the member making the counter compliant potentially adds to the original charges of professional misconduct. Such additional charges are treated as a separate and new complaint where the subject member is afforded all the rights and protections of the discipline process until the process has concluded.

Can you threaten another member with a complaint to the ABCFP?

It is improper, and contrary to the Code of Ethics to use a potential report to the association as a threat against someone. (See the association's website

for the digest of Case 2000-03).

Also, it is generally inappropriate to publicize to anyone other than the person who is the subject of the complaint that a complaint has or will be made, other than for the purposes of:

- a) consulting with colleagues to help you confirm your opinion as to whether a professional breach may have occurred; or
- b) fulfilling a duty to warn individuals who are at risk of harm (See case 1998-03(A)).

Summary

As a part of their responsibilities to the public and the profession members have a duty to report situations of unprofessional conduct, safety concerns for the public and significant risks or damage to the environment. The bylaws require members to discuss matters of concern with the responsible member where it is possible and appropriate to do so. Hopefully the personal contact will result in the matter being resolved either by better understanding of the circumstances or by corrective measures. In some serious cases, however, the professional breach should still be reported to the association. The reporting member must make this decision in good faith but can seek guidance from association staff. Members should remember that where a formal complaint has been submitted and accepted by the association there are various options for resolution. The onus for resolution, however, is shifted from the reporting member to the association. 🐾

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